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GOVERNOR

STATE OF MAINE
MAINE DEPARTMENT OF AGRICULTURE, FOOD & RURAL RESOURCES
BOARD OF PESTICIDES CONTROL
28 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0028

SETH H. BRADSTREET III
COMMISSIONER
HENRY S. JENNINGS.
DIRECTOR

BOARD OF PESTICIDES CONTROL

July 27, 2007

Colby Thomas Rooms, Hampton Inn
425 Kennedy Memorial Drive, Waterville
(Exit 127 from I-95)

MINUTES

9:30 A.M.

**(Note: The Board will break for a box lunch between 12:00 and 12:30.
Other participants are responsible for their own lunches)**

Present: Eckert, Jemison, Simonds, Qualey, Walton, Stevenson and Humphreys

1. Introductions of Board and Staff

Board Members introduced themselves and described their areas of expertise. Board staff and Assistant Attorney General Randlett also introduced themselves.

2. Minutes of the June 22, 2007 Board Meeting

Presentation By: Henry Jennings
Director

Action Needed: Amend and/or approve

Walton/Jemison: Moved and seconded approval of the minutes.

In Favor: Unanimous

3. Decision on Applications to Register Seven Bt Field Corn Products (Note: In the interest of time, public comment will be limited)

At its April 13 and June 22, 2007 meetings, the Board reviewed information pertaining to applications from Pioneer Hi-Bred International, Dow AgroSciences and Monsanto to register seven Bt field corn products in Maine. The Board will review the final report from its Bt Corn Technical Committee relating to pollen drift and insect resistance issues. Following discussion of the report, the Board will then determine whether to register the products in Maine. If the Board elects to register any Bt corn products, they may also consider whether conditions should be placed on any or all of those registrations.

Presentation By: Lebelle Hicks
Staff Toxicologist

John Jemison
Board Member, Chair of the Bt Corn Technical Committee

Action Needed: Determine whether to approve the registration applications for the seven Bt corn products, and if approved, whether any conditions are warranted

- Eckert introduced the subject by reminding the audience that the Board was considering applications to register seven Bt corn products from three companies. She stated that the Board was aware of the many concerns voiced by farmers and the general public about the use of this technology.

Jemison discussed the charge of the Bt Corn Technical Committee, which involved reviewing concerns relating to pollen drift and resistance management. He stated the committee was assembled with an eye toward balance and included two additional university professors: Andrei Alyokhin and James Dill.

Hicks briefly reviewed key aspects of the Technical Committee's report to the Board. She highlighted the discussion centering on whether pollen drift to an organic crop would affect its designation as organic, and the recent email from Barbara Robinson of the USDA that attempted to clarify USDA's position on this issue. Hicks then reviewed the recommendations contained in the Technical Committee's report.

Board members briefly discussed the idea of establishing buffers between Bt corn growers and growers growing non-traited seed. Jemison stated it would be difficult to set buffers without setting an acceptable level of cross-pollination. Hicks added that a number of site-specific factors also influence the effectiveness of buffers.

Members discussed the importance of adhering to the requirements designed to prevent unacceptable pollen drift and development of insect resistance. There was agreement that grower education is paramount, and that compliance monitoring is also key to proper management of this technology.

Eckert then began the public comment portion of the meeting relative to Bt corn. She called participants' names from three sign-up sheets: 1) for, 2) against and 3) neither for nor against. Doug Johnson, Tom Cote, Harvey Williams, Jim Crane, Gary Mullen and Galen Larrabee spoke in support of registering Bt corn products. Peggy Gannon, Jody Spear, Logan Perkins, Russell Libby, Sally Merrill, Representative David Miramant, Andrea DeFrancesco and Rob Fish spoke in opposition to registering Bt corn.

Opponents of approving Bt corn cited insect resistance, contamination of non-GMO crops via pollen drift, patent infringement litigation arising from pollen drift, liability for

contaminated crops, adverse effects on bees and soil fauna, questions about reported tumors in lab animals and sub-lethal health effects such as allergic reactions, and reported effects on livestock.

Proponents cited reduced use and personal exposure to conventional pesticides, fewer impacts on non-target species and the environment, and reduced risks of crop failure. Some pointed out that GM crops are already in Maine and GM corn is already in our food supply.

Board members briefly discussed their options relative to the registration applications as outlined in a handout that Jennings provided in their meeting folders. Eckert polled members as to whether, at that point, they had sufficient information to make a decision. The majority indicated they were prepared to vote. Randlett directed the Board to make separate determinations on each of the criteria, 2 through 5, as detailed in the statute, 7 MSRA, Section 607 8-A. Criteria 2 concerned submission of a proper product label. Members agreed that the labels provided and approved by EPA were adequate.

Members next considered criteria 5, whether a need for the pesticide exists. Most members articulated a basis for need of the products, while Humphreys still questioned whether the need was sufficient in light of the risks. After a brief discussion, Eckert asked Board members to signify whether they believed a need for the Bt corn exists. Six members indicated they believed a need exists; Humphreys indicated sufficient need did not exist.

Next Board members considered criteria 3 and 4 simultaneously, since both criteria relate to unreasonable adverse effects on the environment, and the wording is quite similar. Most members acknowledged the potential for adverse environmental effects, but felt they would be manageable or would not rise to the level of "unreasonable." Humphreys argued that the technology was only ten years old and that insect resistance is inevitable. She also was concerned about the effects on soil fauna and the potential for subtle health effects. Eckert asked members to signify whether they believed the products could be used without unreasonable adverse effects on the environment. Five members signified in the affirmative, Humphreys signified in the negative and Jemison abstained due to his involvement in Bt corn research.

Board members then discussed whether there should be requirements for growers to be trained on the use of the products and whether safeguards should be instituted to prevent pollen drift to other crops. There was general sentiment in support of measures to ensure the products are used responsibly.

Simonds/Walton: Moved and seconded approval of the seven applications to register Bt corn products, subject to the conditions that the registrants provide sales reports and participate in and support educational programs for growers.

In Favor: Six in favor, and Jemison abstained. While Humphreys opposed approval of the Bt corn products, she voted in favor of the motion because she wanted to support the conditions.

Qualey/Walton: Moved and seconded to direct the staff to develop a draft rule to address Board concerns about responsible use of the products.

In Favor: Unanimous

4. Review of the Report from the Stakeholders Committee on Aerial Application Issues

At its November 17, 2006, meeting, the Board established a Stakeholders Committee on Aerial Application Issues. The committee was charged with developing recommendations for Board consideration and intended to address aerial spraying concerns. The committee met five times from March through July and developed a prioritized list of recommendations. The Board will now review the report and determine how to proceed in addressing the recommendations outlined in the report.

Presentation by: Lebelle Hicks
 Staff Toxicologist

 John Jemison
 Board Member, Chair of the Stakeholders Committee

Action Needed: Determine next steps in addressing concerns relating to aerial spraying

- Jemison briefly reviewed the process used by the Stakeholders Committee. He indicated Louise Frank Cyr from the University of Maine did an excellent job facilitating the meetings for what could have been a contentious process. Board members asked a few questions about the report, noting that there was not much discussion of technological solutions or about protecting the health of area residents.

Eckert next called audience members from a sign-up sheet to address the Board on the issue of aerial spraying. Bob Jones, Bob Levine, Jody Spear, Harris Parnell, Representative David Miramant, Heather Spalding, Alyssa Wolf and Steve West addressed the Board about their concerns and/or experiences with aerial spraying.

Several of those who spoke are residents of the Surry/Blue Hill/Sedgewick peninsula where helicopters often spray some of the blueberry fields. They cited incidents of pesticide drift, adverse health effects and an ineffective notification system. Bob Jones expressed concern for the migrant workers raking blueberries. Steve West described witnessing an incident in which children were waiting for the school bus while an adjacent field was being sprayed by a helicopter.

Jody Spear, Harris Parnell and Heather Spalding all offered comments on the Stakeholders Committee report. They felt the report was not forceful enough in calling for substantive change to better protect area residents. Spalding and Parnell each cited a list of measures they felt the Board should adopt.

Board members briefly discussed how to proceed. Consensus was reached for Board members to go through the list of recommendations and prioritize the list themselves, using the same system as the committee. Members also directed the staff to begin framing regulatory language to make improvements in the current notification process, to upgrade the requirements for drift management plans, and to prevent applications to the wrong field.

5. Review of Staff Options to Address Concerns Voiced by the Structural Pest Control Industry Relating to Chapter 26 of the Board's Rules

In May of 2006, the Board adopted Chapter 26, Standards for Indoor Pesticide Applications and Notification for All Occupied Buildings Except K-12 Schools. The new rule became effective on January 1, 2007. Since the rule was adopted, pest management professionals have alerted the Board that the advance notice requirements are creating unreasonable hardships for both applicators and customers. The Board held a preliminary review of those concerns at its June 22, 2007 meeting in which Board members directed the staff to develop a number of options for the next meeting. The Board will review the options developed by the staff and determine which, if any, should be developed for rulemaking.

Presentation By: Gary Fish
Manager of Pesticide Programs

Action Needed: Determine whether it is appropriate to propose rulemaking amendments

Jemison/Simonds: Moved and seconded to table item 5.

In Favor: Unanimous

6. Continued Discussion of Rulemaking Proposal to Continue Restrictions Associated with Browntail Moth Applications Near Marine Waters

The Maine Legislature enacted emergency legislation in the spring of 2006 and 2007, placing temporary restrictions of pesticide applications near marine waters for control of browntail moth larvae. In its January 2, 2007, report to the Joint Standing Committee on Agriculture, Conservation and Forestry (ACF), the Board recommended that the Legislature continue the restrictions during 2007, so that the Board could develop a rule to continue the restrictions indefinitely. The ACF agreed with this recommendation and is expecting a rule will be in place before the 2008 browntail moth spray season. The Board reviewed draft rulemaking language at the June 22, 2007, meeting. Board

members generally supported the draft language. However, they suggested that it would be less confusing to place the exceptions at the front of the section rather than at the end. Consensus was reached to direct the staff to rearrange the language and bring a revised proposal back to the next meeting.

Presentation By: Henry Jennings
Director

Action Needed: Determine appropriate language for proposed rule amendment

Jemison/Simonds: Moved and seconded to table item 6.

In Favor: Unanimous

7. Continued Discussion Concerning Potential Development of Buffer Zones to Protect Surface Water

At the July 21, 2006, meeting, the Board reviewed its prioritization balloting for discretionary tasks discussed at its 2006 planning session in June. Development of buffer zones to protect water quality ranked as the Board's number four priority. The Board reviewed potential language and concepts at the January, February, March and June 2007 Board Meetings. Ideas from the June meeting have been incorporated and the Board will review the latest revisions.

Presentation by: Henry Jennings
Director

Action Needed: Continue refinement of the draft language

Jemison/Simonds: Moved and seconded to table item 7.

In Favor: Unanimous

8. Other Old or New Business

a. Variance Permit Issued to the Aroostook Arboriculture - H. Jennings

Jennings pointed out that the staff had renewed Aroostook Arboriculture's variance permit.

b. Consent Agreement Negotiated Between the Office of the Attorney General and The Turf Doctor - M. Randlett

Randlett briefly reviewed the settlement with The Turf Doctor for unauthorized applications of lawn care pesticides during 2005.

c. Update on the Back Cove Yardscaping Demonstration Project - G. Fish

Fish was no longer present so the item was postponed until the next meeting.

d. Other

There was no other business.

9. Schedule and Location of Future Meetings

September 7, October 5 and November 16, 2007, are the tentative dates for the next Board meetings. The conference room at Maple Hill Farm has been reserved for a planning session on October 26, 2007.

Adjustments and/or additional dates?

No changes to current list of meeting dates were made.

10. Adjourn

Simonds/Jemison: Moved and seconded adjournment.

In Favor: Unanimous

The meeting adjourned at 2:55 p.m.